

RCE 22W

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| Request For Continued Examination (RCE) Transmittal | Application Number | 09/997,807 |
|--|------------------------|-------------------|
| | Filing Date | November 30, 2001 |
| | First Named Inventor | Jay M. SHORT |
| | Art Unit | 1631 |
| | Examiner Name | M. Borin |
| | Attorney Docket Number | 564462010900 |

Address to:
MS RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☐ Other _____

b. ☒ Enclosed

i. ☒ Amendment/Reply (31 pages)

ii. ☒ Affidavit(s)/Declaration(s) (3 pages)

iii. ☒ Information Disclosure Statement (Supplemental) (SIDS) (3 pages)

iv. ☒ Other Form PTO/SB/08a/b (1 page + duplicate)
One (1) reference
Exhibit A - Fig. 3 (1 page)
Return Receipt Postcard

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 03-1952. I have enclosed a duplicate copy of this sheet. Fee Transmittal form (PTO/SB/17) is attached to this submission in duplicate.

i. ☒ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

b. ☐ Check in the amount of \$ _____ enclosed

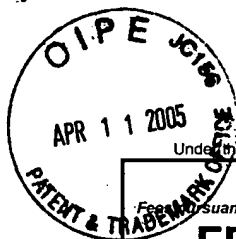
c. ☐ Payment by credit card (Form PTO-2038 enclosed)

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED | | | |
|---|--------------------|------------------|---------------|
| Signature | | Date | April 6, 2005 |
| Name (Print/Type) | Gregory P. Einhorn | Registration No. | 38,440 |

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 6, 2005 Signature: (Norman Green)

04/11/2005 ZJUHARI 00000009 031952 09997807 395.00 DA 01 FD:2601

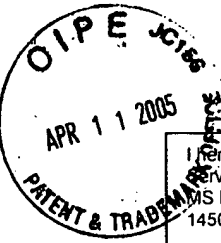


| | | | |
|--|--|--------------------------|-------------------|
| FEE TRANSMITTAL For FY 2005 | | Complete if Known | |
| Effective on 12/08/2004. Fee pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). | | Application Number | 09/997,807 |
| <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27 | | Filing Date | November 30, 2001 |
| TOTAL AMOUNT OF PAYMENT (\$) | | First Named Inventor | Jay M. SHORT |
| 395.00 | | Examiner Name | M. Borin |
| | | Art Unit | 1631 |
| | | Attorney Docket No. | 564462010900 |

| | |
|---|---|
| METHOD OF PAYMENT (check all that apply) | |
| <input type="checkbox"/> Check | <input type="checkbox"/> Credit Card |
| <input type="checkbox"/> Money Order | <input type="checkbox"/> None |
| <input type="checkbox"/> Other (please identify): _____ | |
| <input checked="" type="checkbox"/> Deposit Account | Deposit Account Number: <u>03-1952</u> |
| Deposit Account Name: <u>Morrison & Foerster LLP</u> | |
| For the above-identified deposit account, the Director is hereby authorized to: (check all that apply) | |
| <input checked="" type="checkbox"/> Charge fee(s) indicated below | <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee |
| <input checked="" type="checkbox"/> Charge any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17 | <input checked="" type="checkbox"/> Credit any overpayments |

| | | | | | | | |
|---|--------------------|---------------------|---|----------------------|----------------------------------|-----------------------|-----------------------|
| FEE CALCULATION | | | | | | | |
| 1. BASIC FILING, SEARCH, AND EXAMINATION FEES | | | | | | | |
| | FILING FEES | | SEARCH FEES | | EXAMINATION FEES | | |
| | | Small Entity | | Small Entity | | Small Entity | |
| Application Type | Fee (\$) | Fee (\$) | Fee (\$) | Fee (\$) | Fee (\$) | Fee (\$) | Fees Paid (\$) |
| Utility | 300 | 150 | 500 | 250 | 200 | 100 | |
| Design | 200 | 100 | 100 | 50 | 130 | 65 | |
| Plant | 200 | 100 | 300 | 150 | 160 | 80 | |
| Reissue | 300 | 150 | 500 | 250 | 600 | 300 | |
| Provisional | 200 | 100 | 0 | 0 | 0 | 0 | |
| 2. EXCESS CLAIM FEES | | | | | | | |
| | | | | | | Small Entity | |
| | | | | | | Fee (\$) | Fee (\$) |
| Fee Description | | | | | | | |
| Each claim over 20 (including Reissues) | | | | | | 50 | 25 |
| Each independent claim over 3 (including Reissues) | | | | | | 200 | 100 |
| Multiple dependent claims | | | | | | 360 | 180 |
| Total Claims | | Extra Claims | Fee (\$) | Fee Paid (\$) | Multiple Dependent Claims | | |
| _____ | | _____ | _____ | _____ | Fee (\$) | | Fee Paid (\$) |
| _____ | | _____ | _____ | _____ | _____ | | _____ |
| Indep. Claims | | Extra Claims | Fee (\$) | Fee Paid (\$) | | | |
| _____ | | _____ | _____ | _____ | | | |
| _____ | | _____ | _____ | _____ | | | |
| 3. APPLICATION SIZE FEE | | | | | | | |
| If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s). | | | | | | | |
| Total Sheets | | Extra Sheets | Number of each additional 50 or fraction thereof | | Fee (\$) | Fee Paid (\$) | |
| _____ | | _____ | _____ | | _____ | _____ | |
| _____ - 100 = _____ | | /50 | _____ (round up to a whole number) x _____ | | _____ | _____ | |
| 4. OTHER FEE(S) | | | | | | | |
| | | | | | | Fees Paid (\$) | |
| Non-English Specification, \$130 fee (no small entity discount) | | | | | | | |
| Other (e.g., late filing surcharge): 2801 Request for continued examination (RCE) (see 37 ... | | | | | | 395.00 | |

| | | | |
|---------------------|--------------------|-----------------------------------|----------------|
| SUBMITTED BY | | | |
| Signature | | Registration No. (Attorney/Agent) | 38,440 |
| Name (Print/Type) | Gregory P. Einhorn | Telephone | (858) 720-5133 |
| | | Date | April 6, 2005 |



I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: April 6, 2005 Signature: Norman Green
(Norman Green)

Docket No.: 564462010900 /
910001 / D1590-2US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jay M. SHORT et al.

| | |
|--|----------------------------|
| Application No.: 09/997,807 | Confirmation No.: 6627 |
| Filed: November 30, 2001 | Art Unit: 1631 |
| For: <u>METHOD OF MAKING A PROTEIN POLYMER AND USES OF THE POLYMER</u> | Examiner: Michael L. Borin |

RCE AMENDMENT AND RESPONSE

MS RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

INTRODUCTORY COMMENTS

Responsive to the Final Office Action mailed September 09, 2004, Applicants respectfully request entry of the amendments and consideration of the remarks set forth herein. A Notice of Appeal was filed February 09, 2005; the response is due April 09, 2005. Accordingly, this response is timely filed. Applicants respectfully request entry of the amendments and consideration of the remarks set forth herein. Reconsideration is respectfully requested.

This response is accompanied by a request for continued examination (RCE) under 37 C.F.R. §1.114. Thus, the finality of the outstanding final office action will be withdrawn and Applicants are entitled to have this first submission for this RCE entered and considered on the merits.

Amendment to the specification begins on page 3 of this paper.

Amendment to the claims is reflected in the listing of claims which begins on page 4 of this paper.

Remarks begin on page 12 of this paper.

The following documents are enclosed herewith:

- Request for continued examination (RCE) under 37 C.F.R. §1.114;
- Dr. Nelson Barton's Rule 132 declaration;
- Exhibit A: immunofluorescent light microscope image;
- Supplemental Information Disclosure Statement (IDS) (Mai (1998) J. of Bacteriol.

180:4030).